

**REMARKS/ARGUMENTS**

The Office Action mailed June 10, 2003, has been received and reviewed. Claims 17-27 are currently pending in the application. Claims 17-26 stand rejected. Claim 27 is newly introduced.

Applicant respectfully submits the rejections of record are overcome by Applicant's amendments and arguments herein.

Regarding independent claims 17 and 24, Applicant respectfully submits that the prior art does not teach or suggest an isolated nucleic acid molecule comprising at least bases 1864-2064 of SEQ. ID. No: 3. It is respectfully noted for the Examiner's convenience that claims 17 and 24 include the 3' end of the MIP promoter.

Further regarding claim 24, Applicant has removed the limitation "transformed" before plant, and has adopted the Examiner's suggestion regarding linking the subject nucleic acid to a heterologous nucleic acid sequence.

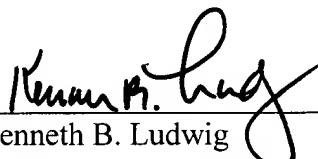
Regarding independent claim 23, Applicant has removed the claim recitation reciting "fragments of SEQ. ID. No:3 containing at least about 23 contiguous nucleotides of 7-2064 of SEQ. ID. No:3."

Regarding dependent claim 26, Applicant has added the recitation that the progeny is selected for expression of the heterologous nucleic acid sequence.

### CONCLUSION

Claims 17-27 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kenneth B. Ludwig", is written over a horizontal line.

Kenneth B. Ludwig  
Registration No. 42,814  
Phone: (317) 337-4944  
fax: (317) 337-4847  
email: [kbludwig@dow.com](mailto:kbludwig@dow.com)

9330 Zionsville Road  
Indianapolis, Indiana 46268